

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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COLLIER LAND & COAL)	Bankruptcy Case No. 10-22059-JKF
DEVELOPMENT, LP,)	
)	Chapter 11
Debtor.)	
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COLLIER LAND & COAL)	
DEVELOPMENT, LP,)	
)	
Movant,)	
)	Related To Doc. Nos. <u>178 & 179</u>
v.)	
)	Hearing Date and Time:
PARKVALE BANK, and HIGHWAY)	<u>March 15, 2011 @ 10:00 AM</u>
EQUIPMENT COMPANY,)	
)	
Respondents.)	
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**PARKVALE BANK’S LIMITED OBJECTION TO THE
EMERGENCY MOTION FOR SALE OF PERSONALTY FREE
AND CLEAR OF ALL LIENS CLAIMS AND ENCUMBRANCES**

Parkvale Bank (“Parkvale”) files this Limited Objection to the Emergency Motion For Sale of Personalty Free and Clear of All Liens Claims and Encumbrances (the “Sale Motion”), and in support thereof, avers as follows:

1. Collier Land & Coal Development, LP (the “Debtor”) is a limited partnership organized under the laws of the Commonwealth of Pennsylvania with a business address of 1633 Route 51, South, Jefferson Hills, PA 15025. The Debtor commenced this case by filing a voluntary petition under Chapter 11 of Title 11 on March 25, 2010 (the “Petition Date”).
2. Parkvale is a Commonwealth of Pennsylvania state chartered bank with a principal place of business at 4220 William Penn Highway, Monroeville, PA 15146.

3. Parkvale is the Debtor's largest creditor. As of the Petition Date the Debtor was indebted to Parkvale for \$1,580,336.07 **plus** accrued interest, professional fees and costs of suit (the "Indebtedness").

4. As of February 1, 2011, and due to a lack of adequate protection payments from the Debtor, the Indebtedness ballooned to \$1,758,923.88 **plus** interest accruing at the per diem rate of \$460.41, **plus** professional fees and costs.

5. On March 10, 2011 the Debtor filed the Sale Motion, pursuant to which the Debtor proposes to sell its equipment listed in the Sale Motion (the "Equipment") to Highway Equipment Company ("Highway") for \$680,000.00.

6. The Proposed Order attached to the Sale Motion indicates that the proceeds of the sale will be distributed in accordance with further order of the Court. The Proposed Sale Order does not set a closing date.

7. Parkvale holds the first lien in and upon all of the Equipment as more particularly set forth in the Motion to Prohibit Or Condition The Use of Cash Collateral; To Compel Adequate Protect; and/or For Relief From The Automatic Stay. See Docket No. 51.

LIMITED OBJECTION

8. Parkvale does not object to the Emergency Sale Motion to the extent it seeks to sell the equipment to Highway for \$680,000.00. However, in consideration of the amount of the Indebtedness and the sale price, all sale proceeds must be immediately paid to Parkvale in order to adequately protect Parkvale's interests in the Equipment. Furthermore, the payment to Parkvale will effect a substantial principal payment (even after payment of interest and fees), which will benefit this estate. Accordingly the Order should provide for payment of all sale proceeds to be paid directly to Parkvale.

9. Furthermore, the Equipment has been available to Highway for inspection since the march 4, 2010 hearing. To the extent Highway has not completed its inspection, the inspection should not further dealy this sale. Highway should be deemed to have waived the inspection. Furthermore, an inspection is somewhat of a “red hearing” as Highway has provided extended warranties on all of the Equipment and in the event of a sale to another buyer, would be obligated to honor those warranties.

10. This Court should fix March 18, 2011 as the deadline for closing, as Highway has represented that it has the ability to close immediately.

11. In the event Highway does not close by the deadline, Parkvale requests that the Court approve Murrys ville Machinery Company as a discretionary back-up bidder to at least allow the potential for the sale of the Equipment if Highway fails to close.

WHEREFORE Parkvale Bank respectfully requests that this Honorable Court provide for all sale proceeds to be paid to Parkvale Bank at the time of closing in any order that approves the Emergency Sale Motion, to set March 18, 2011 as the deadline for closing, and grant Parkvale Bank such further relief as is just and proper.

Respectfully Submitted,

TUCKER ARENSBERG, P.C.

/s/ Michael A. Shiner

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